

REMARKS

Claims 21-40 are pending in the present application. Applicant has amended claims 21, 31 and 40. No claims have been added or cancelled. Applicant respectfully submits that the claims as presented are allowable.

The Examiner rejected claims 21-24, 27, 31 and 33 under 35 U.S.C § 102 (b) as being anticipated by Solloway (US Pat. No. 4,468,023) ("Solloway"). Applicant respectfully submits that Solloway does not show or discuss all the limitations of claims 21 or claim 31. As amended, these claims recite "a handle connected within an interior of the bell and accessible by a human hand through an opening in the bell". Applicant respectfully submits that this feature is not shown in Solloway. In Figures 22-24, Solloway illustrates an aquatic helmet for aquatic neck exercises where a flexible chin strap 202 is fastened under a user's chin to secure the helmet to the user's head. No handle is shown in Figure 22-27. In the last Office Action, the Examiner cited to the chin strap 202 of Figure 24 for support that a handle was shown. Applicant respectfully submit that this analogy is improper since a chin strap is not intended to be grasped by a user's hand and is, therefore, not a handle. Further, the chin strap is not accessible by a human hand through an opening of a bell as recited in the amended claims. Accordingly, applicant respectfully submits that Solloway does not show every limitation of claim 21 or claim 31 and that these claims are allowable over the art.

Regarding claims 22-27, these claims depend from claim 21 which applicant respectfully submits is allowable. Accordingly, claims 22-27 are at least allowable as depending from an allowable base claim.

Regarding claims 33-35, these claims depend from claim 31 which applicant respectfully submits is allowable. Accordingly, claims 33-35 are at least allowable as depending from an allowable base claim.

The examiner rejected claims 21-40 under the judicially created doctrine of double patenting over claims 1-5 of U.S. Patent No. 6,672,994. Applicant is submitting a terminal disclaimer with this Response to overcome the double patenting rejection. Accordingly, claims 28-30, 32, and 36-40 are now allowable.

Conclusion

Applicant has amended claims 21, 31 and 40 in this Response and has submitted a terminal disclaimer. Applicant respectfully submits that claim 21-40 as now presented are allowable over the art cited.

Respectfully submitted,

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Date:

January 12, 2005

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